

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
May 15, 2008**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Thursday, May 15, 2008. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Robert Faubion. Motion carried. Ramon Alvarez and Robert Sloan were absent.

EBID Staff present were Gail Norvell, Controller; Henry Magallanez, Engineer; James Narvaez, Hydrology Director; Leo Barrett, Project Maintenance Director; Valerie Beversdorf, CR-GIS Director; Richard Bejarano, Water Master.

Also present were Steve Hernandez, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; Fernie Ortiz, City of Las Cruces; Rasool Ahadi and J.R. Hennessey, Office of the State Engineer; Ralph DiMarro, KMS; James Duke, Farmer; Wade Deerman, Grower; and Marvin Tessneer, The Bulletin.

Robert Faubion motioned and Willie Koenig seconded to approve the minutes of the April 9, 2008 Board meeting with corrections as presented. Motion carried.

The water supply outlook was presented. The storage totals on May 1, 2008 with a comparison for last year are as follows:

	<u>5/01/2007</u>	<u>5/01/2008</u>
Elephant Butte	555,970	535,860
Caballo	<u>60,960</u>	<u>50,900</u>
	616,930	586,760

Items on the calendar were discussed. Dates include: US-Mex Transboundary Aquifer Assessment Program, Mesilla Basin, June 11th; GMDA Conference, El Paso, TX, June 12-13th; Far West Texas Climate Change Conference, El Paso, June 17th.

The next meeting of the Board of Directors will be held on Wednesday, June 11, 2008.

Gary Esslinger and Steve Hernandez spoke about the meeting they had attended in Denver on BOR Canal Asset Management held May 14th. The meeting focused on canal breaks and a major flooding event in Fenley, Nevada. In this event, a 4 inch gas line was incorrectly placed in the center of a BOR owned ROW maintained by an irrigation district. After the break, the gas line was hanging in the breach. Many homes were destroyed as a result of flooding. This encroachment was allowed by the BOR. Gary stressed the importance of looking at every license for use of District ROW on a case by case basis, being very careful what we allow to be placed in our ROWs. Steve Hernandez said that encroachments, unless they are licensed, will be removed and that pre-license/inspection and reports be given top priority. Gary Esslinger said that this incident reminds that the District needs an emergency plan for communities within its boundaries. Staff is working on developing such a plan.

Henry Magallanez, Engineer, gave the Engineering Department report:

- Variance To Lease Surface Water Rights – Keystone Management – this matter was on the agenda at the April 2008 meeting, but was inadvertently left out. The City of Las Cruces is requesting a variance to lease surface water rights located outside of City limits. The variance has had no objections from other service providers. The land is located west of South Fairacres Road, South of San Ban Subdivision and north of Tres Sendas Road. The owner is Keystone Management Systems LLC. EBID records show 41.94 water righted acres. However, the CLC utilities department is only willing to lease 36.94 out of the 41.94 due to the owner wanting to retain 5.00 acres for agricultural purposes. Willie Koenig motioned and Bill Gary seconded to approve the variance. Motion carried.
- Request to Excess ROW – Mr. Plancarte was unable to attend the meeting and asked that the matter be tabled until June so that he could come before the Board with his request. Robert Faubion so moved and Tom Simpson seconded. Motion carried. The matter will be placed on the June 2008 agenda.

Rio Grande Project Affidavit of Jim Kirby – The matter of taking an affidavit from Jim Kirby was discussed. Mr. Kirby is the bearer of much useful information on the history of the district. Mr. Esslinger said that Mr. Kirby had taught him a lot about the district and that he was a great mentor because of his knowledge of the District. He asked if Kirby's affidavit could be done in a way that is official to be used for future record of history and legal defense. Steve Hernandez said that it would have to be done in a legal setting with court reporters. Jerry Franzoy motioned that the district take an affidavit from Jim Kirby. Robert Faubion seconded. Motion carried.

Roll Call

Minutes Approval

Water Supply

Calendar of Events

Engineer Report

Henry presented the Special Use Permits for the month of May, 2008 as follows:

Special Use
Permits

Non-Moratorium

07-L-085—Ruben Enriquez; To operate and maintain a new vehicle crossing on the Little La Union Lateral, at approximate station 73+08. Assessment, \$1,566.67. Request to waive admin fees, \$666.67.

08-L-010—El Paso Electric; To construct, operate and maintain a new aerial power line crossing the Montoya Lateral WW 37a at approximate station 40+00. Assessment, \$2,916.67.

08-L-011—El Paso Electric; To construct, operate and maintain a new aerial power line crossing the Leasburg canal at approximate station 409+50. Assessment \$3,166.67.

08-L-013—Q West Comm; To construct, operate and maintain a new aerial telephone cable line crossing the covered portion of the Las Cruces Lateral, at approximate station 171+00. Assessment, \$3,166.67.

08-L-015—El Paso Electric; To construct, operate and maintain a new aerial power line crossing the Lewis spur drain, at approximate station 20+10. Assessment, \$3,166.67.

08-L-026—Q West Comm; To construct, operate and maintain a new buried telephone cable line crossing the Louisiana lateral & the Mesilla drain at Valdez rd. and paralleling the Louisiana lateral for approximately 407 ft. Assessment, \$8,493.85.

08-L-027—El Paso Electric; To construct, operate and maintain a new aerial power line crossing the Mesilla lateral, at approximate station 53+00. Assessment, \$3,166.67.

08-L-028—Q West Comm; To construct, operate and maintain a new buried fiber cable line crossing the wasteway 18, at approximate station 14+00. Assessment, \$2,916.67.

08-L-029—Q West Comm; To construct, operate and maintain a new buried fiber cable line crossing the Mitchell lateral, at approximate station 11+50. Assessment, \$3,166.67.

08-L-030—Q West Comm; To construct, operate and maintain a new buried fiber cable line crossing the Newsome lateral, at approximate station 18+00. Assessment, \$3,166.67.

08-L-032—JD IV Farm LLC; To construct, operate and maintain a new irrigation well discharge pipe crossing the Little La Union lateral at approximate station 182+32 and to install a new harvest gate on the left bank of the Little La Union lateral at the same station for crop protection. Assessment, \$3,133.33. Request to waive all fees, \$3,133.33. Farm use.

08-L-033—Q West Comm; To construct, operate and maintain a new buried fiber cable line crossing the Picacho "C" lateral, at approximate station 52+10. Assessment, \$3,166.67.

Encroachment Agreement-Frank Villalobos; To operate and maintain a new 4 ft. chain link fence on covered portion of the Tortugas lateral. \$50.00 application fee.

Total Assessments For All Permits= \$41,243.88
Total Fees Requested To Be Waived= \$ 3,800.00
\$37,443.88

Q West Expired Permits

08-L-017—Q West Comm; To operate and maintain an existing buried telephone cable line paralleling the Mesilla drain at approximate stations 376+91 to 407+00 for approximately 3,009 feet. Assessment, \$13,559.13.

08-L-018—Q West Comm.; To operate and maintain an existing buried telephone cable line crossing the Angostura lateral at approximate station 90+00. Assessment, \$2,916.67.

08-L-019—Q West Comm; To operate and maintain an existing buried telephone cable line paralleling the Taylor lateral at approximate stations 77+20. Assessment, \$2,916.67.

08-L-020—Q West Comm.; To operate and maintain an existing aerial telephone cable line crossing the Westside canal at approximate station 721+45. Assessment, \$3,166.67.

08-L-021—Q West Comm.; To operate and maintain an existing buried telephone cable line crossing Garfield drain at approximate station 435+17. Assessment, \$3,416.67.

08-L-022—Q West Comm.; To operate and maintain an existing buried telephone cable line crossing the Leasburg drain at approximate station 168+78. Assessment,

\$3,416.67.

08-L-023—Q West Comm.; To operate and maintain an existing aerial telephone cable line crossing the Eastside canal at approximate station 129+54. Assessment, \$3,416.67.

08-L-024—Q West Comm.; To operate and maintain an existing buried telephone cable line crossing the Picacho lateral at approximate station 301+10 and paralleling 301+10 to 301+59 and also parallel 301+10 to 299+67. Assessment, \$5,029.80.

08-L-025—Q West Comm.; To operate and maintain an existing buried telephone cable line crossing the Picacho drain at approximate station 279+05. Assessment, \$3,416.67.

Total Assessments For All Permits= \$41,255.62
Total Fees Requested To Be Waived= 0,000.00
\$41,255.62

Henry recommended approval of all permits. Robert Faubion motioned and Bill Gary seconded to approve the permits as presented. Motion carried.

Leo Barrett, Maintenance Project Director gave the Maintenance Report.

Maintenance Report

- Tom Simpson talked about a problem with the Picacho lateral work that was completed just as water started this year. He reported that water gets very high in the area of the intersection with Shalem Colony Trail, and is in danger of over-topping the bank. Leo said that he would look at the problem and see if there still needed to be a little bit of work done to correct the problem.
- Weed control was discussed. Mr. Barrett said that there was finally some relief for the pesky weed called Curly Dock. He is looking into the New Mexico State Contract to see what is available for a herbicide suitable to kill the weed. He said that it was important to keep a close look at ingredients and penetrations, and that we have people in our organization who are knowledgeable on the uses of herbicides.
- Mr. Barrett discussed the pull behind mowing head – had problems. Not worth investing in this type of mower. He suggested we budget for a mower head designed for our excavators.
- Bill Gary asked about maintenance work done on the Angusturas last year. It was dug out and now there is a problem with water seeping in his field. Leo will check out and see if there is a problem resulting from our cleaning the canal.

Ricardo Bejarano, Water Master, gave the operations report for the month of April, 2008 as follows: Farm Deliveries, 2,800; Acres Irrigated, 50,902; AC/FT Charged to Farmers, 24,834; Actual Total Diversion, 45,049; Allotment Balance, 175,603; Breaks, 2; Run over, 0; 2008 Diversion Efficiency 55% as compared to 2007 at 51%.

Operations Report

On the matter of whether or not Pompeo took water illegally, the Board asked Richard Bejarano to investigation the water delivery situation and prepare a report for the Board.

James Narvaez, Hydrology Director, gave the Hydrology efficiency report for the month of April, 2008. The report is as follows: Orders totaled 76,667; Actual Diversion was 75,769; Using -898 AC/FT; Estimated Carriage Losses were 13,418; Adjusted Diversion 62,351; Diversion vs. Order was -1-2%; Total Spill was 1,384; % of Diversion Spilled was 1.8%, Charged to Farmers, 42,040; and Delivery efficiency, 67.4%.

Hydrology Report

Robert Faubion complimented the Leasburg area ditch riders and said that they were doing a real good job this year. He reported that they had asked him to order for water delivery if he could to facilitate not having to spill water. He appreciated the fact that they are doing good job on communication this year. Jerry Franzoy said that he concurred that the riders were on top of the situation this year.

James discussed the flat rate investigations that were being done this irrigation season. James said that we need to do one more round of testing in all three areas in order to be able to give the best figures on the use of water during flat rate weekends. He reported that they had not found as many illegal irrigations in the last set of investigations, and that about one-half of the previously caught illegal irrigators had paid. There were also some repeat offenders caught. Ditchriders had maps and forms to facilitate their investigations. He said that after the next set of flat rate weekends, he would be able to compile his findings. As of this time, he is still looking at a 6" average irrigation rate. Gail Norvell said that we had collected a little over \$11,000 on accounts that came in and paid as a result of the investigations. Phil King said that we need to make an effort to contact flat raters who have no intention to ever irrigate again and get their water reassigned or transferred to others who would use it. Discussion was had on what kind of legal RIGHTS we have to deal with people with no water rights who are taking water illegally. It was decided to turn them over to the OSE water master and let the State Engineer take care of the problem. Tom Simpson said that we have been lax in the past, and it's extremely important that we get this situation taken care of now.

Flat Rate Investigation

Phil King, Hydrology Consultant, gave the water allotment update. As of the end of April, 2008, storage at of San Juan Chama water jumped from 4,500 A/F to 25,424 A/F in the reservoir. This was City of Albuquerque water that they had no place to store it this year. This water is unavailable for any other use except if it could be purchased. New Mexico may use it as compact off sets in the future.

Water Allotment Update

Phil said that based on snow runoff it, was his recommendation not to increase the allocation at this point, but to stay at 2.5 A/F. Jerry Franzoy asked for an increase to 2.75 A/F, but said that he would wait until the June meeting to put that into formal motion. Possibly with rainfall, the allotment could be increased to 3 A/F at the June meeting.

On the matter of EBID carry-over storage for this year, Phil said that he did not recommend that EBID carryover any water and try to use all water allotted this year. He said that the District should state in June how much we intend to carry over. Mexico is based on actual release and the carryover issue for them is not an option.

Phil reported on the BOR allocation meeting held on May 14th. He reported that the Bureau didn't like the way we ordered the water and measured the release. The District sets the release and measures the flow by gate heights and hydrologic measurement, while the BOR attempts to stream measure the release. The result is that the error and timing run short all the way down the river. The BOR bases their release on in-stream current meters, and that is not the same as our real-time measurement readings at Caballo. We are now being charged more for the release by the BOR, and EBID considers this a serious concern. A discrepancy of 10,000 A/F, which is coming directly out of EBID's allocation, has already happened. The staff has recommended that a letter be sent to the BOR's area manager and regional director regarding this issue.

BOR Allocation Meeting Report

Tom Simpson motioned and Bill Gary seconded to break for lunch. Following lunch, Willie Koenig motioned and Bill Gary seconded to reconvene. Motion carried.

Lunch Break

Gail Norvell, Controller, gave the report for her department:

Controller's Report

- The Financial Fact Sheet for the month of April, 2008 is as follows: Cash in the bank totaled \$204,404; assessments receivable totaled \$652,691; and investments totaled \$5,817,507 for a grand total of \$6,674,602. This amount reflects an increase in assets of \$514,661 over April, 2007. Extraordinary costs were from Hubert and Hernandez, PA, Legal Fees, \$38,939. Extraordinary receipts were: Special use fees \$4,650. Also presented was the financial statement for March, 2008.

Financial Report

- Discussion on vehicle allowance – Vehicle allowance increased due to the increase in gasoline prices

Tortugas Dam Acreage

- Meters –60-70 percent of meters have been installed at this time on groundwater wells in the District.

- FEMA update –Reports are in process of review by FEMA. The total expended and collected from FEMA to date is \$875,836. The remaining balances due will be reimbursed after the reports on completed projects are submitted.

Well Metering Program

- Flat rate investigations – After the flat rate investigations approximately \$11,000 was collected from delinquent accounts. Half of accounts investigated have paid, but there are still many illegal diversions. Tom Simpson told staff that the investigations should continue.

- Following the Request for Information send out on the Tortugas property, two entities have submitted their interest.

- The BOR Budget for 2007 was \$50,000 actual expenditure under budget. The BOR will credit this in future billing.

FEMA Update

- The professional service contract for appraisal services was sent out. No response has been reported. Gail will follow up with requests for services for local appraisals again. Henry has information on surveyors' requirements and Gail will develop a request for survey services.

Del Rio Drain land Sale

- The following professional service contracts were presented for renewal and/or amendment

Professional Service Contract Renewals

- Plumbing - Precision Refrigeration Heating and Cooling - renewal
- Heating and Cooling – SE Heating and Cooling - renewal
- Janitor Service – All Clean Maintenance - renewal
- Electrical – High Peak Electric - renewal
- Dr. J. Phil King – amendment
- Dr. Thomas Maddock – amendment

A motion to renew and/or amend all contracts was made by Jerry Franzoy and seconded by Joe Nelson. Motion carried.

- The Employee Advisory Committee will begin meetings in June with employees of each department. Tom Hansen will continue to represent middle managers; Linda Armijo will represent employees; and Gail will represent staff and also co-chair the committee.

EAC Update

Valerie Beversdorf, Computer Resources Director, gave the Computer Resources Department report:

Computer Resources Department Update

- Flat rate maps were prepared for use by the Hydrology and Operations investigation teams. The maps showed flat rate “paid” and “not paid” status. Future maps will also contain farm rate “not paid” status
- The EBID SQL server that stores all Hylax data for tax, water records, and engineering had stopped responding and all of the information on this server was moved to another server. John Gregg, Network Administrator, will research the cause and may need to order a new server?
- Wireless communication, utilizing broadband service for Hatch and Chamberino is underway. Two companies have been found to furnish service for both of these areas and this will provide the satellite yards with fast access to the internet.
- Dave Nelson, Programmer, is developing a new program called Fusion which will eventually replace Hylax. The goal is that Fusion will replace Hylax next year. The two programs will run side by side for a final check before converting totally to Fusion.

Flat Rate Maps

SQL Server

Wireless Communication

Fusion/Hylax Discussion

Gary Esslinger gave the Manager’s update. Topics discussed were as follows:

Managers Update

- A bill for dues from the NWRA Irrigation and Conservation Caucus was discussed. Jerry Franzoy motioned and Tom Simpson seconded to pay dues in the amount of \$960.40. Motion carried.
- Black Start Facility – On a request from the BOR that NM PNM inquired about the possibility of using Elephant Butte Reservoir as a Black Start facility to service the Southern New Mexico area in the event of a severe black out. This would only apply during irrigation season. It was the board’s decision to respond to the Bureau that we are not going to support the facility due to the manual amount of hydro power generated. Willie Koenig so moved to deny the request and Jerry Franzoy seconded the motion. Motion carried.
- An idea of using the District’s Westside and Eastside canals to generate hydro electricity for low head power was discussed. This could produce a future revenue stream of about \$50,000 per site. Generated hydro power could be used in trade to power to electric company and then use revenue to use on electric wells. Gary refers to this as a ‘green water project’.
- The BOR Managing for Excellence final meeting that was held in Las Vegas, NV in February as a part of the Family Farm Alliance Conference was discussed. It was the final outcome that both Reclamation and its customers can improve the ways they conduct their business processes, and operate and maintain their facilities in a more cost-effective and timely manner, but the problem so far is that this new policy has not filtered down to the local level.
- An upcoming RGCC tour scheduled for August 28-31, 2008 was discussed. All members present expressed desire to attend the tour. Gary will begin to set up the tour and report back to the Board.
- HR 1662, the BOR Site Security Bill was discussed. This bill makes costs incurred for the physical security of BOR facilities to satisfy increased post Sept. 11, 2001 security needs reimbursable as O&M costs are capped and the BOR must account for all expenses. This includes fences, surveillance, and guards.
- A memo from the FFA saying that they have made it FFA’s priority to stop the passage of the Clean Water Act Legislation due to the problems it would create with daily O&M of our district.
- An article from Environmental News on Ciudad Juarez Groundwater Well Field regarding warnings that Juarez’s groundwater supply from the Hueco Bolson is steadily diminishing was discussed. The article reported that a new well field in the Mesilla aquifer is being developed. Staff will look into this matter and continue to update the Board.
- Regarding Parasol Dairy, Gary discussed a memo from Dr. Hernandez stating that Parasol Dairy has filed a petition with the New Mexico Water Quality Control Commission appealing the final order of the Secretary of Environment’s decision to deny their application. Dr. Hernandez asked that the District file a request to the NM WQCC that they be allowed to participate in any hearing before the NM WQCC on the Secretary of Environment’s action in denying the Parasol Dairy

NWRA Dues

Black Start Facility Request

Hydro Electricity

BOR M4E Update

RGCC Tour Update

HR 1662

Clean Water Act Legislation

Ciudad Juarez GW Well Field

Parasol Dairy

permit. The Board recommended that a letter be sent to the NM WQCC and to the BOR to urge them to stand strong against this appeal.

Legal update

Legal Update

- EBID is negotiating a grant to WWF of funds available to EBID through the Bureau of Reclamation related to the Bureau's Canalization Project. A large contract or grant is not as workable for EBID and WWF as a series of smaller, project-specific grants. The first grant will fund a bird survey needed for the Bosque Park Safe Harbor Agreement, and WWF will oversee this project for EBID. Staff requested up to \$25,000 of Bureau grant funds for this project. Bill Gary so moved and Joe Nelson seconded. Motion carried.

Jerry Franzoy motioned and Bill Gary seconded to go into closed session to discuss legal matters. Motion carried. Pursuant to Section 10-15-1-h, NMSA of the New Mexico Open Meetings Act, the following topics shall be discussed in closed session:

Closed/Open Session

- Boundary Expansion Dispute
- State ex. rel. D'Antonio vs. EBID (Stream Adjudication)
- AWRM – LRG Basin Specific Regulations Dispute
- EBID vs. United States BOR: (U.S. Dist. Ct. NM) No. CIV 00-1309
- EBID vs. United States BOR and N.M. St. Parks (U.S. Dist. Ct. NM)
- Qwest vs. EBID, 07-CIV-163, LRR 266

Jerry Franzoy motioned and Willie Koenig seconded to return to open session. Motion carried by roll call vote with all members present agreeing to the motion to return to open session. During closed session the above-noted topics were discussed.

There being no further business, Jerry Franzoy motioned and Willie Koenig seconded to adjourn the meeting. Motion carried.

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary